

# **Employment Options and Career Strategies for International Students**

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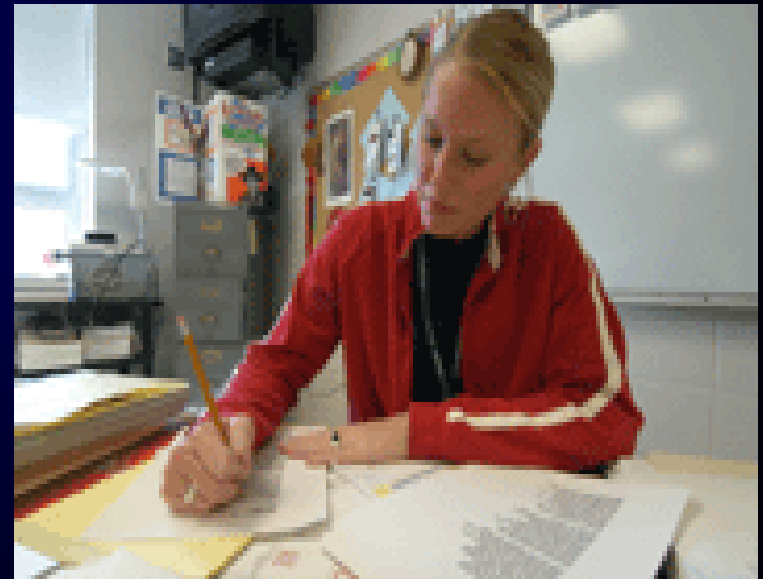
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# Employment Options During Studies

- On-campus Employment
- F-1 Curricular Practical Training (CPT)
- F-1 Optional Practical Training (OPT)
- J-1 Academic Training
- Severe Economic Hardship



# On-campus Employment: Benefits

- Automatic authorization for F-1 and J-1 students (with program sponsor permission) who are maintaining valid status
- Hours not limited during vacation periods
- At some institutions, employment is linked to reduced tuition rates
- Convenient – no special transportation means necessary

# On-campus Employment: Limitations

- Limited to 20 hours/week during required sessions
- Employment must be on school premises, with few exceptions
- Wages for certain positions may be less competitive than an off-campus alternative
- Jobs can be hard to find on some campuses

# F-1 Curricular Practical Training: Benefits

- Minimal processing time - Authorized by Principal/Designated School Official on the I-20
- No cost to apply
- Can be part-time or full-time
- No limit on part-time CPT
- Great for internships and making connections with possible future employers

# **F-1 Curricular Practical Training: Limitations**

- Employment must be a required or integral part of the established curriculum
- Students must be full-time for one academic year before becoming eligible, with one exception
- Employer specific – no flexibility to change employers without new authorization
- Date specific – cannot be backdated & extensions must be authorized prior to additional work
- 12 months of full-time CPT makes student ineligible for OPT

# F-1 Pre-completion Optional Practical Training: Benefits

- Employment must be *related* to the student's academic program but not a *required/integral part* of the program
- Can be used for optional internships/  
gaining work experience
- Job offer is not required to apply
- Ability to change employers and work for multiple employers

# **F-1 Pre-Completion Optional Practical Training: Limitations**

- Students must be full-time for one academic year before becoming eligible
- One year per degree level
- \$340 fee to apply
- Processing times vary - must be approved by USCIS (usually 2-3 months)
- Limited to part-time during required sessions, unless in dissertation or thesis



# **J-1 (Pre-completion) Academic Training: Benefits**

- Minimal processing time - Authorized by Responsible/Alternate Responsible Officers
- No cost to apply
- Can be part-time or full-time
- Students are eligible immediately upon beginning their program of study
- Great for internships and making connections with possible future employers

# J-1 Pre-Completion Academic Training: Limitations

- Employment must be related to program objective
- Employer & date specific
- Limited to 18 months



# Severe Economic Hardship: Benefits

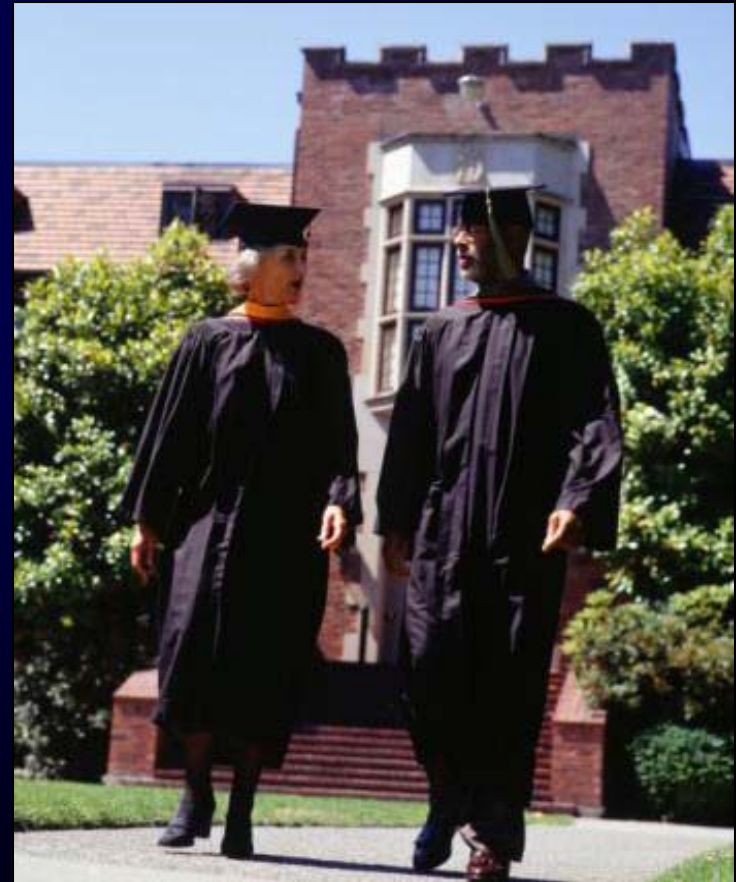
- Allows for off-campus employment for students with financial need
- Competitive wages & increased job opportunities
- J-1 students are authorized by Responsible/Alternate Responsible Officers
  - No fee
  - Minimal processing time

# Severe Economic Hardship: Limitations

- Hours per week still limited to 20, except during vacation periods
- F-1 students are authorized by USCIS
  - \$340 fee
  - 2-3 month processing time
  - VERY HARD TO OBTAIN (at Texas Service Center)

# Employment After Graduation

- J-1 Academic Training
- F-1 Optional Practical Training (OPT)
  - Cap-gap Extension
  - STEM Extension
  - Travel Issues



# **J-1 (Post-Completion) Academic Training: Benefits**

- 18 months allowed (cumulative); or equivalent length of program - if shorter
- 36 months for post-doctoral positions
- Employment can be paid or unpaid
- Authorized by Responsible Officers/Alternate Responsible Officers
  - Minimal processing time
  - No fee to apply

# J-1 (Post-Completion) Academic Training: Limitations



- Employment must directly relate to program objective
- 2 year home residency requirement could prevent long-term employment visa for certain J-1 status holders

# J-1 Academic Training: Travel

- International travel is allowed, but visa application could be problematic



## • Travel in J-1 Status:

- ✓ Properly endorsed DS-2019
- ✓ Valid passport & J-1 visa
- ✓ Employment Authorization Letter
- ✓ Job Offer letter



# F-1 Post-Completion Optional Practical Training: Benefits

- Widely approved by USCIS for eligible students
- Job offer is not required to apply
- Ability to change employers and work for multiple employers
- Can serve as bridge to H-1B/Long-term employment visas



# **F-1 Post-Completion Optional Practical Training: Limitations**

- 12 month limit, except for STEM majors
- Over 90 days of unemployment is a violation of status
- Work must relate to major field of study
- Reporting requirements

# STEM OPT Extension



- 17-month extension of post-completion OPT
- Employment must be E-verify during STEM OPT period
- Science, Technology, Engineering & Math majors only

# STEM OPT Extension

- Similar limitations/benefits to standard OPT, except:
  - 120 days of unemployment allowed during cumulative 29 month period of OPT
  - Allows for maximum employment time on F-1 status
  - Can switch employers as long as they are E-verify

# Travel Issues During OPT & STEM Extension

- International travel is permitted during the application process and after obtaining the EAD
- Application is generally not affected, except in problem cases (RFE not addressed in a timely manner)
- Students should carry application receipt or EAD once approved

# Travel Issues During OPT & STEM Extension

- EAD is not valid for re-entry to U.S. on its own – student travels as an F-1
  - Properly endorsed I-20 (6 months)
  - Valid passport & F-1 visa required
  - EAD
  - Proof of employment/job offer recommended
- Visa application could be problematic – especially if close to 90/120 days of unemployment

# Cap-Gap Extension

- Bridges the gap between end of Post-completion OPT & start of H-1B approval
- Automatic extension of status & work authorization
- Minimal processing – DSO simply reprints I-20 for eligible students

# Special Travel Issues: Cap-Gap

- Although employment authorization & status are extended, international travel should not be advised during this period
- No extended EAD to present to Consular/Port of Entry Officials
- Travel could adversely affect change of status to H-1B, but generally petition will still be approved



# Common Visa Options for Employment in the U.S.



- H-1B Temporary Worker
- H-1B Chile, Singapore Set-aside
- E-3 Temporary Worker (Australians)
- L-1 Intracompany Transferee
- H-3 Trainee
- J-1 Exchange Visitor
- TN Trade NAFTA Worker
- O-1 Extraordinary Ability Alien
- E-1/E-2 Treaty Trader/Investor
- Immigrant Visa Petition

# H-1B Visa Classification for Professional Workers

- Most popular visa classification for foreign students graduating from U.S. universities
- Requires that an employer act as “sponsor”
- Position must require at least a bachelor’s degree or its equivalent (foreign degree and/or prior work experience)
- Position must require a specific degree or degree concentration
- Sponsored employee must have specific degree required



# Only a Limited Number of H-1B Visas Available Each Year

- 65,000 H-1B visa numbers are available per CIS fiscal year
- Filing for each fiscal year opens on April 1 of the year prior
- Employment for each fiscal year starts on October 1 (so, filing begins 6 months in advance of employment)



# Fiscal Year 2009 H-1B “Lottery”

- On April 1, 2008, the FY2009 H-1B filing window opened and CIS reported that more than 100,000 petitions were received for filing that first day
- H-1B regulations require that the filing window be extended to 5 business days and that all filings submitted during that window be counted and placed in a random, “lottery” selection process
- Nearly 2/3 of the petitions filed were returned



# Fiscal Year 2010 Cap – Effects of a Down Economy

- Filing under the 2010 Cap opened Wednesday, April 1, 2009
- No lottery needed because filing was way down. As of mid-October 2009, still over 10,000 H-1B visa numbers remained available under the regular H-1B cap
- “Master’s Cap” was reached in the summer of 2009, but applicants with Master’s degrees from U.S. institutions can still apply under the regular cap



# H-1B for Graduates of U.S. Graduate Schools



- H-1B Regulations allow for a cap **exemption** for an additional 20,000 applicants each year
- Qualified applicants must have completed all requirements to be awarded a Master's or higher degree from a U.S. university **at the time of filing**
- If there are too many cases filed and a lottery system is utilized, these cases get “two bites at the apple” - if a case is rejected from the Master's cap exemption, it is automatically placed into the general H-1B lottery

# Master's Cap Exemption – Must Qualify at the Time of Filing

- CIS has stated: “A letter from a Registrar or other official within a school authorized to speak on behalf of the school would have no effect unless it confirms that all degree requirements were met at the time of filing the H-1B petition.”
- Acceptable Evidence that the applicant qualifies includes:
  1. A diploma
  2. Transcripts showing that the degree has been awarded
  3. Official letter from the registrar or person in charge of records stating that the degree has been awarded





# Cap-Exempt Employers

- H-1B regulations exempt certain H-1B petitions from the annual numerical cap if the employer qualifies
- Cap-exempt employers include:
  1. Institutions of higher education
  2. Nonprofit entities related to or affiliated with institutions of higher education
  3. Nonprofit research organizations engaged in basic or applied research activities
  4. Government research organizations whose primary mission is to perform or promote basic or applied research
- There are no filing deadlines for these cases, filing is year-round
- But, if the beneficiary needs to change employers later and will be moving to a cap-subject employer, he/she will need to file for a new H-1B under the numerical cap



# What to do before October 1?

- If a foreign graduate has an OPT that expires before October 1, he/she will receive an automatic extension of work authorization if the H-1B petition is accepted for processing (automatic extension will be valid until October 1)
- Sometimes, even if the graduate has been approved for H-1B, there may be a gap in status and/or employment authorization before the H-1B start date
- Consider other visa categories
- Take a vacation before work assignment starts
- Take a rotation abroad before starting U.S. assignment, if possible
- Important to plan ahead with employer

# L-1 Intracompany Transferee

- Must have worked abroad for parent, subsidiary, affiliate, or branch for one continuous year out of the three years immediately preceding entry to the U.S.
- NOTE: The candidate need not be presently employed with a related entity abroad
- Maximum time for executive or manager is 7 years
- Maximum time for specialized knowledge professional is 5 years
- Time in L-1 status counts toward the 6-year H-1B maximum



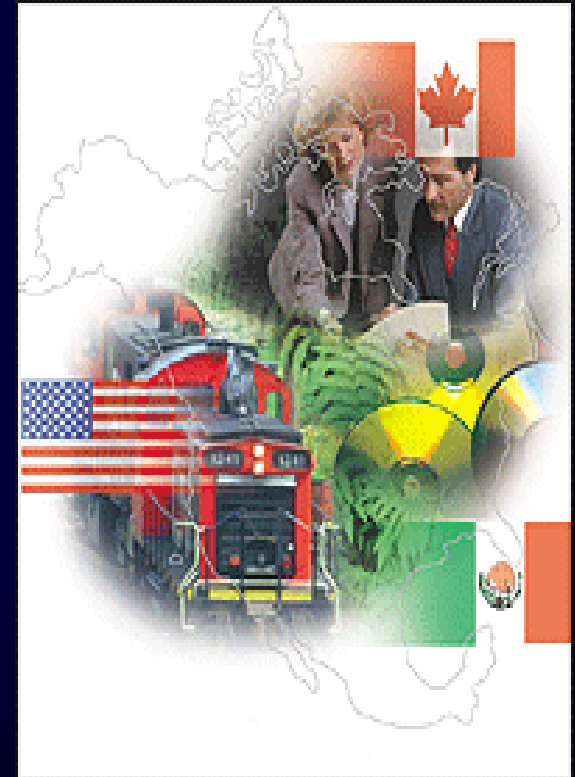
# H-3 Trainee

- The specific training must be unavailable in the beneficiary's home country
- The purpose of U.S. training should be to prepare the Trainee for a career, project or assignment abroad
- Any productive employment must be incidental to the training
- Valid for up to 2 years maximum



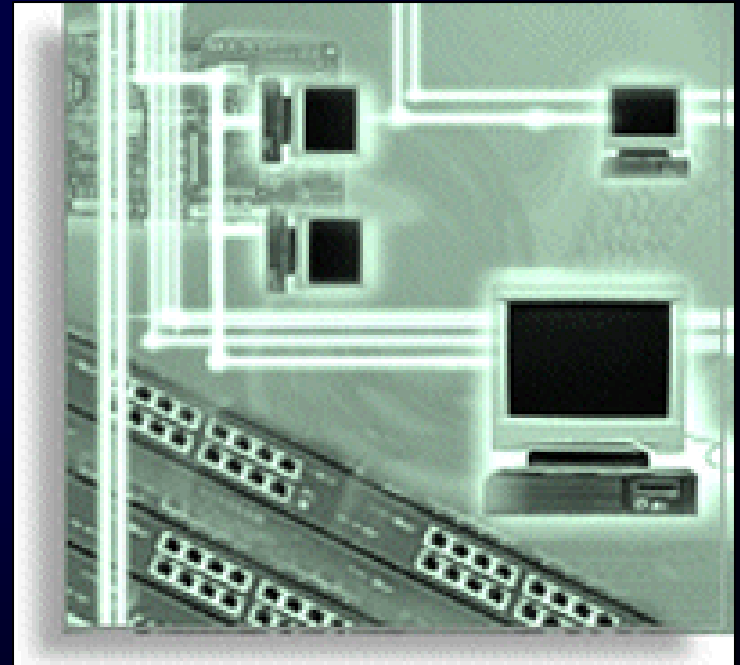
# TN Trade NAFTA

- The beneficiary must be citizen of Canada or Mexico
- The position must fit into one of the 60+ professional occupation categories enumerated in NAFTA
- The beneficiary must have the specific credentials listed for that occupation (generally equivalencies are not acceptable)
- Valid for up to three years at a time and can be renewed indefinitely (although with practical limitations)
- Application directly at the Port of Entry (for Canadians) or at the Consulate (for Mexicans) avoids CIS delays



# E-1 Treaty Traders & E-2 Treaty Investors

- The sponsoring entity must be at least 51% foreign-owned by a company or individual with the citizenship of the treaty country
- An appropriate treaty between the U.S. and the foreign country of origin must be in place
- The foreign national employee must share the same citizenship as the company
- The position must be managerial in nature or one requiring “essential skills” or specialized experience



# H-1B1 Chile, Singapore Set-aside



- The numbers set aside are a subset of the overall H-1B cap
- The beneficiary must be citizen of Chile or Singapore
- Basic requirements are the same as for any H-1B
- Visas numbers usually remain available throughout fiscal year
- Valid in one-year increments
- A change to a three-year H-1B in a subsequent fiscal year will require a new H-1B fee and a new H-1B number from that future year's H-1B cap

# E-3 Treaty Visa for Australians

- E-3 Visa Program for Australian Nationals as alternative to H-1B
- Australian professionals working in specialty occupations are granted an anticipated 10,500 visa numbers per fiscal year
- Spouses may apply for employment authorization
- Apply directly at U.S. Consulate (no CIS delays)





# O-1 “Alien of Extraordinary Ability”

- Used by Artists, Scientists, Innovators, Athletes, Specialists
- Must be able to prove person is one of the very few that have risen to the top of his/her field of endeavor
- Normally requires proof of national/international awards, publications, patents, public recognition of expertise
- No maximum limitation of stay





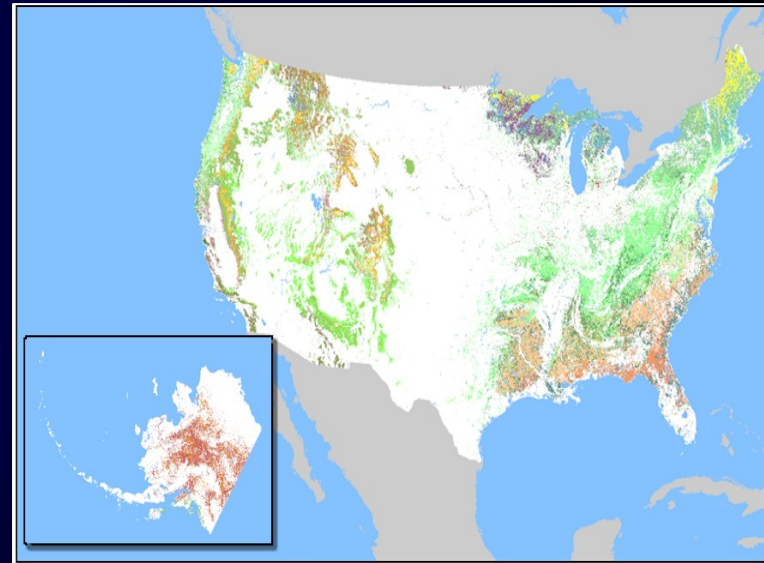
# Taking an Assignment Abroad

- Many international companies have started sending foreign employees to offices abroad for experience while they wait out the H-1B lottery
- Especially valuable for those subject to the J-1 2-year home-residence requirement
- If assignment abroad is at least 1-year in length, then L-1 option may also be available



# Immigrant Petition

- Depending on the circumstances, it may be viable to go straight from OPT to permanent residence
- In some cases, concurrent filing of I-140 & I-485 is possible, which allows the applicant to also apply for an Employment Authorization Card as an “intending immigrant”
- Family-based immigration is also an option for Immediate Relatives of U.S. Citizens



# Employment Options and Career Strategies for International Students

Q & A

